IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NOs : 22409 of 2004 & 21849 of 2004

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WRIT PETITION NOs : 22409 of 2004

Between:

T. Venkata Ratnam, S/o Venkateswar Rao, aged about 39 years,
Working as Technical Assistant, Under the Control of Technical Officer, Weavers Training Center, Siricilla, Karimnagar District.

..... PETITIONER

AND

1. The Commissioner and Director of Handlooms and Textiles, B.R.K.R

Buildings, 4th Floor, Tank Bund, Hyderabad.

2.The Government of Andhra Pradesh, rep. by its Principal Secretary,
Industries and Commerce (Tax) Department, Secretariat, Hyderabad.

3.The Technical Officer, Weavers Training Center, Sircilla, Karimnagar

District.

4.A.P. Textile Development Corporation Limited, Cheneta Bhavan,

Nampally, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records relating to the order passed in OA No. 4453/2000 dated 15-10-2004 on the file of the A.P. Administrative Tribunal, Hyderabad and quash the same and consequently declare that RC.No. 11740/94E 1 dated18-7-2000 issued by the Commissioner and Director of Handlooms & Textiles, A.P. is illegal, arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India and further declare that the Act 14 of 1997 is not applicable in the case of the Petitioner.

Counsel for the Petitioner: MR.K.SATYANARYANA MURTHY

Counsel for the Respondents: G.P. FOR SERVICES-I

WRIT PETITION NO : 21849 of 2004

Between:

V.N.V.Subrahmanyam, S/o. V.K.V. Subba Rao, aged about 40 years,
Working as Technical Assistant, O/o. The Principal Telugu Cheneta

Parisramika Sikshana Kendram, HIndupur,under the control of the
Commissioner for Handlooms and Director of Handlooms and Textiles,

A.P. Hyderabad, R/o. Hindupur, Ananthapur District.

..... PETITIONER

AND

1.The Commissioner and Director of Handlooms and Textiles, B.R.K.R.

Buildings, 4th Floor, Tank bund, Hyderabad.

2.The Government of Andhra Pradesh, Rep by its Principal Secretary,
Industries and Commerce (Tax) Department, Secretariat, Hyderabad.

3.The Principal, Telugu Cheneta Parisramika Sikshana Kendram,
Hindupur, Ananthapur District.

4.A.P. Textile Development Corporation Limited, Cheneta Bhavan,

Nampally, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records relating to the order passed in OA No. 4436/2000 dated 15-10-2004 on the file of the A.P. Administrative Tribunal, Hyderabad and quash the same and consequently declare that RC NO. 11740/94E1 dated 18-7-2000 issued by the Commissioner and Director of Handlooms & Textiles, A.P. is illegal, arbitrary and violative of Article 14, 16 and 21 of the Constitution of India and further declare that the Act 14 of 1997 is not applicable in the case of the petitioner.

Counsel for the Petitioner: MR.K.SATYANARYANA MURTHY

Counsel for the Respondent: G.P. FOR SERVICES-I

The Court made the following :

COMMON JUDGMENT:

(per G. Bikshapathy J)

1. Both the Writ Petitions can be disposed of by a common judgment as they arise out of the common Order passed by the tribunal in O.A.NOs. 4453 of 2000, 4436 of 2000 dated: 15.10.2004.

2. Petitioners are the applicants before the tribunal. They challenged the Order passed by the 1st respondent Commissioner-Director of Handlooms and Textiles, Hyderabad repatriating them to their employer Andhra Pradesh Textile Development Corporation vide proceedings dated: 18.7.2000.

3. Petitioners were appointed as Technical Assistants in the Andhra Pradesh Textile Development Corporation in the year 1989. They were working in Jangaon Production Centre. While so, the Commissioner for Handlooms issued a communication on 12.10.1991 to the Managing Director of Andhra Pradesh Textile Development Corporation to send Bio data of Technical persons working in the Corporation for posting them as Technical Assistants in Telugu Chenetha Kendram, Hindupur and Weavers Centre, at Siricilla. The bio data of the petitioners along with others was sent to Commissioner and accordingly selections took place by the Commissioner in that regard and finally the petitioners were selected and they were

taken on deputation as Technical Assistants. The Commissioner issued proceedings dated: 25.7.1992 intimating that the petitioners were selected as Technical Assistants in the Training Centres at Hindupur and Sircilla on deputation basis for a period of two years. Petitioners accepted the deputation and joined the deputation post. They were also given the respective scales of pay attached to the post and they were also given pay as revised from time to time. Basing on the Order issued by the Commissioner, Managing Director also issued Orders on 28.11.1995 relieving the petitioners from deputation.

4. However, after expiry of two years period, they continued to be serving the institution. While the matter stood thus, the Commissioner issued proceedings dated: 18.7.2000 repatriating the petitioners to the Textile Corporation on the ground that Act 14 of 1997 prohibited the employees of the State Government undertaking for absorption in Public Services and that their services were not required in the training centre. The said Order came to be challenged by the petitioners before the tribunal. The learned tribunal after considering the material available on record dismissed the O.A. holding that they have no right to continue in the post under the Commissioner of Textile. Aggrieved by the said Order, the present Writ Petitions have been filed.

5. The learned counsel for the petitioners submit that the petitioners were specifically selected for appointment to the post of Technical Assistants under the Commissioner of Handlooms and therefore, they are deemed to have been absorbed. Further, since they have been working for considerable length of time for deputation without there being any extension for deputation, it has to be presumed that they are automatically absorbed in service without specific notification issued by the Government. Further, it is also contended by the learned counsel that the proposals were in fact sent for absorption and no decision was taken by the Government in this regard. Similarly placed employees like Balakoteshwara Rao, who was a Casual Watchman, who was brought on deputation was absorbed in the

Government and therefore, the Order of repatriation is illegal and discriminatory. The tribunal ought to have allowed the application filed by the petitioners.

6. On the other hand, the learned Government Pleader submits that they have no right to continue on deputation. Further, until such time absorption Orders are issued, they cannot be treated to have been absorbed. More over, their absorption is also prohibited by Act 14 of 1997. Mere fact that they were selected and posted on deputation does not *ip so facto* conclude that they were selected for ultimate absorption in the Government. Hence, the Order of the tribunal cannot be said to be illegal or contrary to law.

7. We have heard the learned counsel for the parties at length.

8. The lis falls in a very narrow compass.

9. Petitioners were initially appointed as Technical Assistants in the Centres under the control of the Corporation. But, however, the Commissioner of Handlooms with an intention to select Technical Assistants for being posted at training centres sent requisition to the Corporation to send the names of the candidates, who could be considered for deputation. Ultimately after selection process, petitioners were found to be fit for deputation and they were sent on deputation in 1992 to the training centres under the control of the Commissioner. It is also not in dispute that the petitioners were given regular scales as applicable to the Technical Assistants in the Handloom and Textile Department of the Government. They were repatriated after considerable length of time.

10. The question that calls for consideration is whether the petitioners have acquired any right to absorb or deemed to have been absorbed?

11. Initially the petitioners were appointed in the A.P. Textile Development Corporation and subsequent deputation would indicate that they were the employees of the Corporation and the Orders issued by the A.P. Textile Development Corporation also clearly indicate that they were sent on deputation. No Order has been placed before this Court absorbing the petitioners in the Government service. Further, there is no deeming provision of absorption of such candidates, who were sent on deputation and continued for a longer periods. Under those circumstances, so long as they were not permanently absorbed by the Government, they have no right to claim the post in the Government departments. The terms of deputation are very clear and in fact they were continued on such terms even beyond initial period of two years. Mere fact that they continued for considerable length of time cannot confer any better right than of a mere deputationist. It is not only Act No.14 of 1997 which prohibited absorption of the employees of the State Public Sector Undertakings into the Government, but it has been specifically stated in the impugned Order of the Commissioner that their services were no more required. Under those circumstances, it is not appropriate to thrust the employees on a organisation, which does not require the services.

12. The learned counsel for the petitioners refers to the decisions reported in D. SESHARANI Vs. MANAGING DIRECTOR, A.P. WOMEN'S COOPERATIVE FINANCE CORPIRATION, HYDERABAD and K. RAVINDRANATH Vs. GOVERNEMTN OF ANDHRA PRADESH. But, those decisions are of no assistance. The facts in the above cases are quite different and distinct. The learned counsel for the petitioners further submit that the Textile Development Corporation has been actually under loss and therefore, the petitioners will be thrown out of the employment. Hence the petitioners should be allowed to continue in the Government department. This contention cannot be countenanced, as the petitioners are the employees of the A.P. Textile Development Corporation. They have to sail or sink along with the Corporation, unless the Government issues any Order either transferring the employees from the Corporation to other Corporations

or to the other organisations. But, this Court cannot direct the Government to absorb the petitioners in the Textile Development Corporation, on the premise that it is not running on sound line or it is closed.

13. For the aforesaid reasons, we do not find any flaw in the Order of the tribunal and accordingly the Writ Petitions are dismissed. No costs.

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G.BIKSHAPATHY, J

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P.S. NARAYANA, J

24-2-2005

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SECTION OFFICER

To

1. The Commissioner and Director of Handlooms and Textiles, B.R.K.R

Buildings, 4th Floor, Tank Bund, Hyderabad.

2.The Government of Andhra Pradesh, rep. by its Principal Secretary,
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Nampally, Hyderabad.

5.The Principal, Telugu Cheneta Parisramika Sikshana Kendram,
Hindupur, Ananthapur District.

6.2 CCs to G.P. Services-I, High Court Buildings, Hyderabad.

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